

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND
LIABILITY ACT (CERCLA)

14-14-F. Cost Recovery Arbitration

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), to refer cost recovery claims for resolution by arbitration, and to represent EPA at arbitration hearings, conferences, and negotiations.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS. The Regional Administrator's delegatee for referral of cost recovery claims for resolution by arbitration must obtain the advance concurrence of the Regional Counsel before exercising this authority. The Regional Administrator or his/her delegatee must notify the Assistant Administrator for Enforcement and Compliance Assurance and the Assistant Administrator for Solid Waste and Emergency Response, or their designees or his/her designee prior to referring a cost recovery claim for resolution by arbitration. The Assistant Administrator may waive the notification by memorandum.
4. REDELEGATION AUTHORITY. The authority to refer cost recovery claims for resolution by arbitration may be redelegated to the Division Director level. The authority to represent EPA at arbitration hearings, conferences, and negotiations may be redelegated to the staff attorney level.
5. ADDITIONAL REFERENCES.
 - a. Section 104, 107, and 122(h) (2) of CERCLA.
 - b. Procedures for referral of cost recovery claims for resolution by arbitration and for representing EPA at arbitration hearings, conferences, and negotiations are published at 40 CFR Part 304, Arbitration Procedures for Small Superfund Cost Recovery Claims.

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14-14-F. Cost Recovery Arbitration (cont'd)

c. Authority to enter into or exercise Agency concurrence in non-judicial agreements or administrative orders for the recovery of response costs is delegated in 14-14-D, "Cost Recovery Non-Judicial Agreements and Administrative Consent Orders." Delegation 14-14-D may become applicable in two situations under the arbitration regulation: (i) if the Agency seeks to adopt a proposed arbitral decision as an administrative settlement pursuant to Section 122(h)(1) of CERCLA when the arbitration has been converted to a non-binding arbitration because costs increased to a dollar amount in excess of \$500,000, excluding interest, prior to the rendering of the final arbitral decision; or (ii) if the parties to the arbitration settle the claim as an administrative settlement pursuant to Section 122(h)(1) of CERCLA, rather than having the settlement embodied in a proposed arbitral decision. In either instance, if the total response costs at the facility exceed \$500,000, excluding interest, the Agency may not compromise the claim without the prior written approval of the Attorney General.

d. Authority to enter into or exercise Agency concurrence in de minimis settlements under Section 122(g) of CERCLA is delegated in Delegation 14-14-E, "De Minimis Settlement."

I, Valdas Adamkus, Regional Administrator, Region 5, having been duly delegated the authorities set forth under this delegation, redelegate these same authorities and responsibilities, subject to the conditions and limitations set forth in the above delegation, to the Director, Superfund Division, Region 5.


Valdas V. Adamkus

5/2/96
Date